HIGH COURT OF CHHATTISGARH, BILASPUR

W.P. (S) No. 5423 of 2007

PETITIONER		Subran Tirkky, S/o late Shri Atmaram Tirkky, Aged about 43 years, working as Assistant Grade-II, Village Post Khandgawan, District Koriya (C.G.)
		Versus
RESPONDENTS	1	The State of Chhattisgarh, Through Secretary , Department of Education, Schedule Tribe and Schedule Caste, D.K.S. Bhawan, Raipur (C.G.)
	2	Under Secretary, Government of Chhattisgarh Department Education Schedule Tribe and Schedule Caste D.K.S. Bhawan, Raipur (C.G.)

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA

Appearance:

Shri Santosh Bharat, Counsel for the petitioner.
Shri Ajay Dwivedi, Panel Lawyer for the State.

ORAL ORDER
(08.10.2007)

SUNIL KUMAR SINHA, J

Heard.

The petitioner, who is working on the post of Assistant Grade-II, has been transferred from Government Higher Secondary School, Khadgawan, District Korea to High School, Bilaspur, Block Batauli, District Sarguja.

Learned counsel for the petitioner submits that the wife of the petitioner is also working as Lady Health Worker in a Local Community Centre and she has not been transferred, therefore, it would be difficult for the petitioner, if the husband and wife are kept at two different places. He also submits that the daughter of the petitioner is suffering from some mental ailment and she is taking regular treatment at Gwalior and on this ground also, if the husband and wife will reside at two different places, they will not be able to look after the child.

(22)

Having heard learned counsel for the petitioner and having considered the facts and circumstances of this case, I am not inclined to admit this petition on these grounds.

Transfer is an incidence of service. No person working on a transferable post can claim to be posted at a particular place. It is for the employer to see that who should be posted where in the interest of better functioning of the department as also in the public interest. It is the settled view of the Apex Court that unless the order of transfer is vitiated by malafide or extraneous consideration or is against any statutory Rules or Act, it cannot be interfered by a Court of Law.

In view of the above, the petition is dismissed. However, looking to the prevailing circumstances and personal difficulties of the petitioner, he shall be at liberty to file a representation before the concerned authority, who shall be free to dispose of the representation at the earliest in accordance with law.

Sd/-
Sunil Kumar Sinha
Judge

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